

April 19, 1977

LB 38, 459, 459A, 445,
518, 530

intentionally. So you do wind up with the kid who intends to represent what he or she is selling as a narcotic substance but it isn't. They don't know that it isn't. So if you are after the dope pusher, why don't you say knowingly and intentionally. If it's a dope pusher you are after and Senator Schmit knows this but the state patrol was cagey in trying to get this language, by saying you intend to represent it as a substance, a controlled substance, but you don't know that it is. That will get the kids too. It allows the state patrol as they have done in many instances to pick up the little fish. As I've said on many occasions switching the parallel now, the spiderweb catches the small insects but the large ones fly through. You're not going to get the bankers and the Ike Conway's who are on trial in Omaha right now behind something like this where they are pretending that a substance is a drug which is not. They are not going to run afoul with something like this. I'll give the example again at Central where a kid was selling caffeine and thought that he was selling dope and it turned out not to be. Senator Schmit would want him charged with a Class IV felony and say that the state patrol was fighting dope. But understand this one point again. The known pusher is not going to run afoul of this. If all the things that the kids are selling, playing like they are selling dope, is baking soda and caffeine and Senator Schmit says, no if they are in the game they've got to sell the real stuff or go to prison, then I think that is a perversion of Senator Schmit's logic which I'm doing on purpose because that is not his intent. That is the practical effect of what he is saying. He asked the other day or Senator Simon or somebody, would it be possible when I asked the question could somebody who had made a purchase of an alleged dope substance, narcotic substance, which turned out not to be that, I would bring a complaint against the pusher. Alright, Senator Simon said that wouldn't be likely to happen but suppose I wanted to get the pusher. I feel the pusher was an agent and the pusher may not have been an agent so I bring a complaint. It's established that the substance sold to me was not a narcotic. Then I can bring the charge and I can make the complaint as a junkie because I did not get the substance that I bargained and paid for. I think that the provision of statute is going to catch the little fish while letting the big ones go. I think it ought to be removed from the statute and that's why I'm making this motion.

PRESIDENT: Senator George, for what purpose do you rise?

SENATOR GEORGE: Was that closing?

PRESIDENT: Yes. The question is the adoption of the Chambers amendment. Record your vote. Have you voted? Record.

CLERK: 8 ayes, 12 nays. Mr. President I have some material to read in. There is a certificate...first off Mr. President, the Miscellaneous Subjects Committee gives notice of an executive session under the North Balcony at 11:30. Signed Senator Dworak. Mr. President, there is a certificate and an attaching statement from the President of the Legislature directed to the Secretary of State on LB 459 and 459A. Senator Koch asked unanimous consent to print amendments to 445. Senator DeCamp asked unanimous consent to print amendments to 518. Senator Kelly asked unanimous consent to print amendments to LB 530. (Refer to pages 1497-1499). (Senator Burrows asked to print amendments to LB 518 on pages 1499-1500).